

South Carolina Immigration Law Partly Blocked by U.S. Court

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By Don Jeffrey

Dec. 22 (Bloomberg) -- Enforcement of South Carolina's immigration law, scheduled to take effect Jan. 1, was partially blocked by a federal court at the request of the U.S. government.

U.S. District Judge Richard Mark Gergel said the Justice Department is likely to succeed in its challenge to three sections of the law, according to a filing today in court in Charleston, South Carolina.

"The Constitution of the U.S.A. and the Immigration and Nationality Act have placed the policy-making role regarding immigration in the hands of the national government," Gergel said in his order.

The measure criminalizes an immigrant's failure to carry a certificate of registration and requires police who suspect someone is in the U.S. unlawfully to verify the person's legal status. The federal government sued on Oct. 31, saying the law would impose "significant and counterproductive burdens" on the U.S.

"Alien registration is a field under the exclusive control of the federal government," Gergel wrote.

People Who Jaywalk

Allowing state law enforcement officers to conduct inquiries could lead to the arrests of people who jaywalk or have cars with burned-out tail-lights, Gergel said, which would "burden and disrupt federal immigration enforcement efforts" to find illegal immigrants with criminal profiles.

The state's attorney general, Alan Wilson, this month asked the judge to allow the law to take effect until the U.S. Supreme Court issues a ruling on Arizona's immigration law. "The two laws are nearly identical," Wilson said at the time.

"The United States Supreme Court will ultimately decide this matter in the coming year," Mark Plowden, a spokesman for Wilson, said today in an e-mail. "Until then, it appears that many important aspects of the S.C. law will go into effect on Jan. 1, 2012." He noted that only three of 20 sections of the law were blocked by the judge from taking effect.

A Justice Department spokeswoman, Xochitl Hinojosa, said the federal government is pleased with the order.

Gergel also said that enforcement of the state's law could "generate tensions with foreign nations and retaliation against American nationals abroad."

Alabama is also fighting a federal challenge to its immigration law. The state asked a U.S. appeals court in Atlanta to halt the case pending the Supreme Court's review of Arizona's law, which also requires local police to check the immigration status of anyone they suspect may be in the U.S. illegally.

The case is U.S. v. State of South Carolina, 11-2958, U.S. District Court, District of South Carolina (Charleston).

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